

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN ELECTRICAL EMPLOYEES' PENSION
FUND, Trustees of; MICHIGAN ELECTRICAL
EMPLOYEES HEALTH PLAN, Trustees of;
NATIONAL ELECTRICAL BENEFIT FUND, Trustees of;
NATIONAL ELECTRICAL ANNUITY FUND, Trustees of;
WEST MICHIGAN ELECTRICAL JOINT APPRENTICESHIP
AND TRAINING COMMITTEE TRUST, Trustees of; and
WEST MICHIGAN LABOR-MANAGEMENT COOPERATION
FUND, Trustees of,

Plaintiffs,

Case No. 1:19-cv-00844

v.

RIVERWAY ELECTRIC CO., LLC, and
FRED WOHLFERT,

Defendants.

**NOTICE OF CONDITIONAL DISMISSAL WITHOUT PREJUDICE AND
REQUEST FOR ENTRY OF EX-PARTE ORDER (i) DISMISSING CASE
WITHOUT PREJUDICE, AND (ii) SETTING PROCEDURES FOR
RE-OPENING OF CASE AND ENTRY OF JUDGMENT**

Defendants have not answered or otherwise responded to the Complaint; Plaintiffs, corporate Defendant RIVERWAY ELECTRIC CO., LLC, and individual Defendant FRED WOHLFERT have entered into a settlement agreement regarding the claims of the Plaintiffs (the "Settlement Agreement") which provides and to which Defendants have consented, among other things, for the dismissal of the case without prejudice, and for the re-opening of same and

entry of a judgment against Defendant Fred Wohlfert with the right for Plaintiffs to move for entry of judgment against Defendant Riverway Electric Co., LLC, in the event of a Default under the Settlement Agreement upon the filing by Plaintiffs of an Affidavit of Default and after the filing by Plaintiffs of a Motion for Entry of Order Re-Opening Case and Entry of Judgment, with notice and a hearing thereon.

1. Plaintiffs are filing this Notice of Conditional Dismissal Without Prejudice (“Notice”) subject and conditioned in all respects to entry of the attached Ex-Parte Order (i) Dismissing Case Without Prejudice, and (ii) Setting Procedures for Re-Opening of Case and Entry of Judgment (“Order”).

2. In the event that the attached Order is not entered by the Court, this Notice shall automatically be deemed revoked and withdrawn and shall have no force or effect whatsoever as if this Notice was never recorded.

Respectfully submitted,

WATKINS, PAWLICK,
CALATI & PRIFTI, PC

s/ Hope L. Calati
HOPE L. CALATI (P54426)
Attorneys for Plaintiffs
1423 E. Twelve Mile Rd.
Madison Heights, MI 48071
(248) 658-0800
hcalati@wpcplaw.com

Dated: October 16, 2019

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN ELECTRICAL EMPLOYEES' PENSION
FUND, Trustees of; MICHIGAN ELECTRICAL
EMPLOYEES HEALTH PLAN, Trustees of;
NATIONAL ELECTRICAL BENEFIT FUND, Trustees of;
NATIONAL ELECTRICAL ANNUITY FUND, Trustees of;
WEST MICHIGAN ELECTRICAL JOINT APPRENTICESHIP
AND TRAINING COMMITTEE TRUST, Trustees of; and
WEST MICHIGAN LABOR-MANAGEMENT COOPERATION
FUND, Trustees of,

Plaintiffs,

Case No. 1:19-cv-00844

v.

RIVERWAY ELECTRIC CO., LLC,
a Michigan limited liability company, and
FRED WOHLFERT, individually, jointly and severally,

Defendants.

WATKINS, PAWLICK,
CALATI & PRIFTI, PC
HOPE L. CALATI (P54426)
Attorneys for Plaintiffs
1423 E. Twelve Mile Rd.
Madison Heights, MI 48071
(248) 658-0800

**EX-PARTE ORDER (i) DISMISSING CASE WITHOUT
PREJUDICE, AND (ii) SETTING PROCEDURES FOR
RE-OPENING OF CASE AND ENTRY OF JUDGMENT**

Defendants have not answered or otherwise responded to the Complaint;

Plaintiffs, corporate Defendant RIVERWAY ELECTRIC CO., LLC, and individual Defendant FRED WOHLFERT, have entered into a settlement agreement regarding the claims of the Plaintiffs (the “Settlement Agreement”). That Settlement Agreement, to which Defendants have consented, provides, among other things, for the dismissal of the case without prejudice, and for the re-opening of same and entry of a judgment against Defendant Fred Wohlfert with the right for Plaintiffs to move for entry of judgment against Defendant Riverway Electric Co., LLC, in the event of a Default under the Settlement Agreement upon the filing by Plaintiffs of an Affidavit of Default and after the filing by Plaintiffs of a Motion for Entry of Order Re-Opening Case and Entry of Consent Judgment Against Fred Wohlfert, with notice and a hearing thereon. Plaintiffs have filed with this Court concurrently herewith a Notice of Conditional Dismissal Without Prejudice subject and conditioned in all respects, however, to entry of this Order; and the Court, after having been fully advised of the terms of such agreement;

IT IS HEREBY ORDERED AND ADJUDGED as follows:

1. This case is dismissed without prejudice and without costs or attorneys’ fees to any party and shall be administratively closed.
2. Upon the occurrence of a Default under the Settlement Agreement, Plaintiffs shall file with this Court and serve on Defendants (a) Notice of Re-Opening Case, (b) an Affidavit of Default under Settlement Agreement, and, (c) a

Motion for Entry of an Order Re-Opening Case and Entry of Consent Judgment Against Fred Wohlfert to enforce the terms of the Settlement Agreement which shall include a credit for any payments which have been made under the Settlement Agreement and an award of statutory prejudgment interest, costs and attorneys' fees, and which shall grant Plaintiffs the right to move for entry of judgment against Defendant Riverway Electric Co., LLC.

3. This Court shall retain jurisdiction over this matter for purposes of enforcing the Settlement Agreement and the matters set forth in the preceding paragraph.

UNITED STATES DISTRICT JUDGE

DATED: _____